

**ASSEMBLY BILL**

**No. 1284**

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**Introduced by Assembly Member Hagman**

February 18, 2011

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An act to add Section 1203.3a to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1284, as introduced, Hagman. Probation bonds.

Existing law authorizes the court to grant probation, as defined, to certain persons convicted of a crime. Persons placed on probation by a court are under the supervision of the county probation officer who determines both the level and type of supervision consistent with the court-ordered conditions of probation. Existing law also provides that if, at any time during the probationary period, the court has reason to believe that the probationer is violating any term or condition of his or her probation, the court may modify, revoke, or terminate the probation.

This bill would provide, in addition, that in lieu of revoking probation, the court, as a condition for continuing a defendant's probation, may order the defendant to post a bond from a licensed surety not to exceed \$10,000 if the defendant was convicted of a misdemeanor and not to exceed \$25,000 if the defendant was convicted of a felony, to secure compliance with any or all of the terms and conditions of probation. The bill would require the court, within 10 days of noncompliance with the terms of probation after a bond has been posted, to notify the defendant, the surety, and the bail agent of the probation revocation hearing. The bill would require the court to declare the bond forfeited if the defendant does not appear at the hearing. The bill would provide that, in lieu of forfeiture, the bond may be reinstated, as provided. In the case of forfeiture, this bill would require that the surety be notified

within 30 days of the forfeiture. If the defendant is returned to custody within 180 days, this bill would require that the bond be exonerated.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) According to the Department of Corrections and  
4 Rehabilitation, over 150,000 people are in state prison, which is  
5 nearly double the system's capacity. In addition, county jails are  
6 overcrowded.

7 (2) The overcrowding of prisons and the breakdown of the parole  
8 and probation systems have become serious problems. The  
9 recidivism rate among those released early from state prisons is  
10 extremely high, with 67.5 percent of criminals released from prison  
11 being rearrested for a felony or serious misdemeanor within three  
12 years.

13 (3) Currently, 10 percent of those on parole or probation simply  
14 disappear, compared with only 3 percent of those released on  
15 private bail bonds. Furthermore, 15 murders a day are committed  
16 by people under government supervision and 53 percent of prison  
17 inmates were on probation, parole, or pretrial release at the time  
18 of their incarceration.

19 (4) Not only do criminals commit new crimes while under  
20 supervision, many choose to simply run away. Frequently, there  
21 is little effort made to track these runaways down.

22 (b) In order to properly protect California's citizens, the  
23 Legislature enacts this measure relating to probation bonds.

24 SEC. 2. Section 1203.3a is added to the Penal Code, to read:

25 1203.3a. (a) In lieu of revoking the probation of a defendant,  
26 the court may, in the court's discretion and as a condition of  
27 continuing that defendant's probation, permit the defendant to post  
28 a bond from a licensed surety to secure compliance with any or  
29 all of the terms and conditions of probation.

30 (b) Any bond to be posted pursuant to this section shall be a  
31 written undertaking in an amount not to exceed ten thousand dollars  
32 (\$10,000) if the defendant was convicted of a misdemeanor or in  
33 an amount not to exceed twenty-five thousand dollars (\$25,000)

1 if the defendant was convicted of a felony. The bond shall be  
2 delivered by the surety to the court and shall describe the terms  
3 and conditions of the surety's obligations.

4 (c) The bond of a licensed surety shall be accepted by the court  
5 if executed by a licensed bail agent of the surety. The bond shall  
6 have a one-year term and may be renewed annually. At the time  
7 of renewal, application may be made to the court to reduce the  
8 amount of the bond. The application may be made by the surety  
9 or the defendant. The annual premium for the bond shall be fully  
10 earned on execution or renewal.

11 (d) Provided the defendant complies with all terms and  
12 conditions imposed by the court, the bond shall be exonerated at  
13 the earlier of:

14 (1) The conclusion of the term set by the court.

15 (2) Five years from the date of the posting of bond.

16 (e) Subject to the terms and conditions described in the bond,  
17 upon the defendant's noncompliance with any of the terms and  
18 conditions of probation after a bond has been posted pursuant to  
19 this section, the court shall, within 10 days of noncompliance, mail  
20 notice of the probation revocation hearing to the defendant, surety,  
21 and bail agent. If the defendant fails to appear at the hearing, the  
22 court shall declare the bond forfeited and shall provide written  
23 notice of the forfeiture to the surety and the bail agent whose name  
24 appears on the bond. The notice of forfeiture shall be mailed to  
25 the surety and the bail agent at the address specified on the bond.  
26 The notice of forfeiture shall contain proof of mailing and shall  
27 be mailed to the surety and the bail agent within 30 calendar days  
28 of the bond being forfeited. If notice of forfeiture is not mailed  
29 within the 30-day period, the surety shall be relieved of all  
30 obligations under the bond and the bond shall be exonerated. In  
31 lieu of exonerating the bond, the court may make an order to  
32 reinstate the bond and release the defendant on the same bond if  
33 both of the following conditions are satisfied:

34 (1) The surety and bail agent are given prior notice of the  
35 reinstatement.

36 (2) The surety or bail agent has not surrendered the defendant  
37 to custody.

38 (f) If the defendant surrenders or is returned to custody, either  
39 voluntarily or after surrender or arrest, within 180 calendar days

1 of the date of the mailing of the notice of forfeiture, the bond shall  
2 no longer be deemed forfeited and shall be exonerated.

3 (g) Except where expressly inconsistent with this section, the  
4 provisions of Article 6 (commencing with Section 1300) of Chapter  
5 1 of Title 10 of Part 2, including, but not limited to, the provisions  
6 relating to the surrender of the defendant, surrender of the  
7 defendant before forfeiture of the bond, and the forfeiture or  
8 reinstatement of the bond, shall govern bonds provided for in this  
9 section.

10 (h) For purposes of this section, a licensed surety is a person  
11 holding a bail license issued pursuant to Chapter 7 (commencing  
12 with Section 1800) of Part 2 of Division 1 of the Insurance Code.